

REMARKS

Claims 1, 4, 10, 16, 22, and 26 have been amended. Claim 21 has been cancelled. Claims 1-20 and 22-27 are pending and under consideration.

Favorable reconsideration of this application, in light of the following discussion and in view of the present amendment, is respectfully requested.

I. Rejection under 35 U.S.C. § 112

In the Office Action, at pages 2-3, claims 4, 21-22, and 26 were rejected under the second paragraph of 35 USC § 112 as being indefinite. Claims 4, 21, and 26 have been amended in response to this rejection and claim 21 has been cancelled. Accordingly, withdrawal of the § 112 rejection is respectfully requested.

II. Rejection under 35 U.S.C. § 102

In the Office Action, at pages 3-8, claims 1-5 and 7-27 were rejected under 35 USC § 102(b) as being anticipated by "Robinson" (U.S. Patent No. 6,219,413).

Claim 1 has been amended to recite "means at a called party's telephone for enabling selective entry of a user message in response to the alert while the incoming call is pending and still ringing to the called party." As such, claim 1 provides that a user generated message is created by the called party and sent to the calling party via the telephone prior to the called party answering the call. In contrast, Robinson merely provides a separate "auto attendant system" that provides the called party with messaging options only after the called party answers the call.

Since Robinson does not discuss or suggest all of the features of claim 1, claim 1 patentably distinguishes over Robinson.

Claims 2-5, 7-9, 20, and 25-27 depend either directly or indirectly from claim 1, and include all the features of claim 1, plus additional features that are not discussed or suggested by the reference relied upon. Therefore, claims 2-5, 7-9, 20, and 25-27 patentably distinguish over the reference relied upon for at least the reasons noted above.

Claim 10 recites "a command interface for receiving one or more message parameters from the called party while the incoming call is pending and still ringing to the called party" and "the customized message being transferred from the telephony device via the telephone network wherein the controller is configured to selectively either record the customized message while the incoming call is pending or receive one or more parameters in a pre-recorded message while

the incoming call is pending." Since Robinson does not discuss or suggest all of the features of claim 10, claim 10 patentably distinguishes over Robinson.

Claims 11-15 and 22-23 depend either directly or indirectly from claim 10, and include all the features of claim 10, plus additional features that are not discussed or suggested by the reference relied upon. Therefore, claims 11-15 and 21-23 patentably distinguish over the reference relied upon for at least the reasons noted above.

Claim 16 recites "receiving a command from a called party in response to the user alert while the incoming call is pending and still ringing to the called party." Since Robinson does not discuss or suggest all of the features of claim 16, claim 16 patentably distinguishes over Robinson.

Claims 17-19 and 24 depend either directly or indirectly from claim 16, and include all the features of claim 16, plus additional features that are not discussed or suggested by the reference relied upon. Therefore, claims 17-19 and 24 patentably distinguish over the reference relied upon for at least the reasons noted above.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: _____



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